



**New York City  
Department of Transportation**

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**Iris Weinshall, Commissioner**

176440

June 5, 2002

U.S. Department of Transportation  
Dockets Management Facility  
Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590

DEPT. OF TRANSPORTATION  
DIVISION  
02 JUN 11 PM 3:31

Re: FHWA Docket No. FHWA-2001-11130 - 48

To Whom It May Concern:

Enclosed are the New York City Department of Transportation's comments on the above Federal Highway Administration docket number regarding improvements that can be made to the FHWA's regulation on Traffic Safety in Highway and Street Work Zones.

In addition to the enclosed, we suggest that noise and vibrations caused by construction work also be considered in amending your regulations.

Thank you for the opportunity to comment on this proposal.

Sincerely,

*Deborah R. Glikin*  
Deborah R. Glikin  
Associate Counsel

encs.

c: P. Damashek



**New York City  
Department of Transportation**

**Iris Weinshall, Commissioner**

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Construction Control  
OCMC-Streets**  
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**MEMORANDUM**

**TO:** Deborah Glikin  
**FROM:** William B. Hirsch, AICP *Bill*  
**DATE:** May 6, 2002  
**SUBJECT:** FHWA Advanced Notice of Proposed Rulemaking

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DEPT OF TRANSPORTATION  
OFFICE OF LEGAL AFFAIRS  
02 MAY -9 AM 9:43

In response to your memo re comments regarding improvements that can be made to its regulations, I am submitting the following compilation of comments from this Bureau.

Under section 5533 NHTSA & MMUCC includes the definition of work zones as follows: Work zones may or may not involve workers or equipment on or near the road.

**PROPOSED CHANGE:** This should be amended and classified as transition area, buffer zone, staging area or storage area as is current in other agency(s) documents including the MUTCD. If an area of Highway is classified as a work zone it should be a work zone and contain either actual work, equipment or construction personnel. *Why would an area of roadway be classified as a work zone if it does not possess any of these characteristics?*

Responses to Questions 1 through 20.

**General:**

1. Yes a national policy should be defined. Yes it should be a regulation, not a secondary policy.

2. No, the current provisions of CFR 630 are not adequate. While the requirements of work zone safety are adequate in general, they are not adequate in all implementations. Quite often reconstruction on long term projects is implemented in narrow constricted corridors where current standards and requirements are not most suitable. Quite often advance safety measures should be implemented far in excess of the current requirements where narrow corridors, interchanges, excessive weaving and roadway curvature are already a safety concern.

3. Yes, they should be. The most appropriate factors should also include in addition to those factors already mentioned, sight distance (this is a major concern on several corridors already), lighting, user needs and alternate route availability (including temporary roadways).

4. Yes, there should be a common definition, all the current definitions should be combined for the similarities and the odd (those not among the common thread) definitions should be removed, with the emphasis on an area actually under construction or occupied by construction equipment or personnel.

### **Transportation Planning and Programming**

5. It does not appear that enough emphasis is placed on the user needs during the early stages of planning. Of critical concern is the ignorance/unawareness of planning multiple long-term projects on parallel corridors by the same sponsor. More consideration must be given to projects on parallel corridors to allow sufficient alternate routes to mitigate displaced traffic from other corridors.

6. The metropolitan level should not be involved in those facets of the planning process in direct fashion. If the needs of the users on the metropolitan level are adequately conveyed to the sponsoring entity, then that sponsor must himself look for the alternate measures to address those needs.

7. This is addressed in the early planning stages when development of the MPT is in progress, but not enough resources are committed to the necessary mitigation of user delays. Additional resources should include greater public notification on a broad band scope with daily information feeds to users.

### **Project Design of Construction and Maintenance**

8. On the local level we already pursue the issue of alternating schedules, however this often leads to conflict with the sponsoring agency as it often endangers the letting of projects due to missed time frames for construction scheduling. More resources must be allocated to designing temporary roadways.

9. The PRIMARY emphasis should always be on the user, when this factor is given a lower consideration the long-term economic impacts are often greater than the construction costs and in many cases are never recovered.

10. Tighter coordination on the local level to maintain project schedule delivery is the key to achieving this. Often the utility is not given enough notice in advance of those needs. The local government should be a key player in this facet of the operation.

### **Managing for Mobility and Safety in and Around Work Zones**

11. Region 11 in partnership with NYCDOT already employs this practice.

12, 13 & 14. see above.

15. Yes there is no current audit other than on the Local government level but it should be done by the sponsoring entity.

## **Public Outreach and Communications.**

16. See response to question 7, also this should primarily be the responsibility of the sponsoring entity.

17. Yes

## **Analyzing Work Zone Performance**

18. Yes, This information if provided by the State would enhance coordination of projects in the early designing stages. In addition auditing should be performed for work zones and the findings filtered down to all the entities involved with the project. This will allow for improvements in planning work zones.

19. Yes. This information if provided to the local municipality would help mitigate future issues and enhance already existing ones. Of paramount concern are the delays, travel times, queue and volumes.

20. The local municipality is not provided with any data if in fact any data is collected. However this would be useful in evaluating staging and MPT's on future projects.

## **Additional Comments:**

Due to current regulations both on State and Local levels, additional travel lanes are not provided as a standard measure. This type of scenario often calls for demapping of parkland, an EIS or public hearings. Legislation must be enacted to allow governments to provide in their designs on all new reconstruction projects the creation of additional travel lanes where shoulders already exist. These travel lanes would reduce delays in the future when lanes are taken for maintenance activity or additional construction activity. These lanes could then be marked as emergency vehicle lanes only, when they are not used during construction. Violators would produce additional revenue and emergency vehicles would be given greater access to respond to emergencies thereby improving the time it takes to provide medical aid or assistance to those in need and ultimately having an improved travel time for the users.

We also recommend stronger enforcement by local officials to decrease the number of fatalities of workers killed by their own equipment. This means checking back-up beepers on all construction equipment, making sure that all lights are working (yellow) and the use of flag people when moving construction equipment on-site.

Page 5: Project Design for Construction and Maintenance

1. We would like to see on all future Capital Reconstruction and Resurfacing jobs have concrete rain gutters attached to curb lines. This would work with catch basins collecting water. This will also alleviate any future grade problems causing ponding when roadway needs resurfacing.

2. We would like to see our Landscape Notes added to all Contracts.  
See Attached:

Managing for Mobility and Safety In and Around Work Zones.

1. All major highway construction sites should have cameras. We have the technology for wireless equipment. It should in-turn be hook up with Police or DOT communication centers, who would have local precincts respond to conditions as needed.
2. We should have a standard policy on how construction work zones are kept. Traffic seems to look at what is going on around them as they pass through the work zone. The sites give such a bad appearance as you drive by. Also all contracts should include the cleaning of construction and staging location sites once a month.

# ATTACHMENT

~~DRAFT~~

## REGION 11 LANDSCAPE PROTECTION AND RESTORATION NOTES - February 5, 2002 NEAR FINAL REVISION

-prepared by Peter Dunleavy/ R Laravie, NYSDOT  
R-11 Landscape/Environmental Unit, 718-482-6726

- CHANGE  
As  
Needed
- a. Unless otherwise noted, all work shall be performed in accordance with NYSDOT standard specifications dated January 2, 1995, with current addenda thereto.
  - b. Within ten (10) business days of the award of the Contract, the Contractor, through the Engineer-In-Charge shall contact the NYCDOT Director of Arterial Maintenance [REDACTED] [REDACTED] 40 Worth Street Room 1029, New York, NY 10013) and the NYC Parks Department Interagency Coordinator, ([REDACTED], The Olmsted Center, Flushing Meadows-Corona Park, Flushing NY 11368), to arrange for a preconstruction site inspection.
  - c. **"Work Zone and Tree/ Landscape Protection"** Prior to starting any contract work on an arterial, the State will do a pre-construction inspection to which NYCDOT will be invited, documenting through photographs (still or video) and descriptions, all pre-existing landscape features and conditions, including damage to plants and structures within the work zone. The limits of the work zone, which are the project limits as shown on the title sheet, will be identified in the field through markers such that they are clearly identifiable.

Also prior to any other work, the Contractor shall stake out the limits of "Tree/Landscape Protection Areas" within the work zone as shown on the plans, for approval by the EIC in consultation with the Regional Landscape Architect, (and NYCDOT and NYCDPR as appropriate). If no Tree/Landscape Protection Area limits are specifically shown on the plans, and work will occur in or near trees or vegetated areas, the EIC, in consultation as above, will direct the Contractor. The intent of the limits is to protect the root zone of individual trees and groupings of trees (using the "dripline"—the vertical projection to the ground of the trees' canopy—as a guide), lawns and other valuable vegetation to the maximum extent feasible while allowing the contractor sufficient room to operate. Therefore, the Contractor must assess the adequacy of the allowed space for all conceivable activities including the parking of personal vehicles. It is understood that work may need to occur in the root zone of trees. In such cases, the Contractor may propose adjustments to the stakeout of protection limits to suit field conditions and such operations. Any such adjustments shall be in writing and/ or shown on a plan and/ or approved in the field by the EIC in consultation as above.

After approval of the stakeout and adjustments, "snow fencing" (paid for under item

08615.0402M) shall be placed along these limits unless otherwise specified. Street trees or other individual trees in pits in paved areas will be protected by wooden barriers (NYCDPR standard) as shown in the plans, to be paid for under item 594.01M.

Once protection fencing is in place, the Contractor shall not enter, damage or diminish the landscape or any portion thereof within the defined Tree/Landscape protection areas. Additionally, where work areas must encroach on tree root zones, the Contractor, if ordered by the EIC shall furnish a 0.200M (approx. 8") layer of wood chips within the dripline area to reduce soil compaction. Also, when occupying dripline areas, the protective fencing must be in place and the Contractor shall avoid stockpiling, storing equipment, driving or parking any vehicles to the maximum extent possible. Any such stockpiling shall be removed as soon as possible. By the end of the project, the entire work zone, with the exception of items documented during the pre-construction inspection, shall be restored per the contract documents and/or to standards mutually agreed upon on advance by NYCDOT and NYSDOT (and NYCDPR if within their jurisdiction).

4. **Approved Tree removals or pruning:** Prior to the performance of any tree pruning or removals within NYCDPR jurisdiction (other than removals where it is agreed by NYSDOT, NYCDOT and NYCDPR that "volunteer" trees are clearly causing a safety hazard or threatening a structure), the Contractor shall contact, through the Engineer-In-Charge, the New York City Parks Department (NYCDPR) Borough Forester(s) for the borough(s) in which the work is located and shall obtain any required forestry permit(s). For any such work shown on the Contract Plans, NYCDPR permits have been obtained by NYSDOT and are provided to the Contractor in the Proposal of the Contract Documents. The NYCDPR Borough Foresters are:

Borough	Name	telephone/ fax:
Bronx:	Mr. Rick Zeidler	[REDACTED]
Brooklyn:	Mr. Thomas Stofka	[REDACTED]
Manhattan:	Mr. William Steyer	[REDACTED]
Queens:	Mr. Thomas Russo	[REDACTED]
Richmond:	Mr. James McCabe	[REDACTED]

No tree pruning may be performed except by (or under the supervision of) a qualified tree-care professional (certification by the International Society of Arboriculture, American Horticultural Society or approved equal) approved by the Regional Landscape Architect in consultation with NYCDOT and, where within the jurisdiction of the NYCDPR, without the permission of the NYCDPR.

In case of a tree removal, all remnants including, but not limited to stumps, trunks, limbs, branches, and foliage shall be disposed of as expeditiously as possible. (In Asian Longhorn Beetle Quarantine areas, restrictions apply; see other notes later in this section). The cost of disposal as specified above shall be included in the price bid for the respective tree removal items.

5. **“Unauthorized” tree removals:** If the Contractor removes trees not identified on the Contract Plans or removes trees within the jurisdiction of NYCDPR which are not approved by the Borough Forester, or so severely damages trees that in the judgement of the Borough Forester they must be removed, the Contractor shall provide replacement trees at his/her own expense according to NYCDPR's basal area formula or other criteria stated in the NYCDPR permits. The final location of replacement trees (to be planted in accordance with specifications for item 611.010174M, 80mm or 3.15 inches in caliper, unless otherwise specified) should be within the project limits and will be as directed by the Engineer-In-Charge after consultation with the Regional Landscape Architect, (NYCDPR and NYCDOT as appropriate). If planting within the project limits is not possible, NYSDOT, NYCDOT and NYCDPR will agree on appropriate mitigation. Any replacement trees planted as mitigation must be watered, maintained and guaranteed per NYSDOT standard specifications at no cost to the State.
6. **General protection of existing landscape:** At all times during the course of the project, the Contractor shall avoid or minimize: soil compaction, pollution, erosion and impacts to existing vegetation unless removal, selective thinning or clearing and grubbing are specified in the Contract Plans. The Contractor shall place approved wood chips and/ or geotextile A.O.B.E. on unpaved areas where materials will be stockpiled, to minimize soil compaction and prevent contamination of existing soil. Under no circumstances may petroleum products, concrete wash water, paint, or other pollutants be allowed to seep into the landscape or city drainage system.

If concrete equipment washing is required, this must be done only in an approved “containment area” within an approved staging area as shown and detailed in the contract documents. Unless otherwise specified, the containment area shall be created by forming an enclosure (earthen berm, item 203.01M or hay bales, item 209.05M) continuously lined with heavy-duty impermeable sheets. The sheets and all evidence of washout shall be removed on completion of the operation, original grades and soil texture will be restored (soil uncompacted and well aerated) and the area, unless otherwise specified, will be seeded per 610.0203M.
7. **Staging/Storage Areas:** If the Contract Plans identify staging/storage areas on parkways or other properties under the jurisdiction of the NYCDPR and/or NYCDOT, such areas have been approved by the NYCDPR and/or NYCDOT, and have been included in their Construction Permit.

If the Contractor proposes any other Contractor yards, or main staging areas or access routes on parkways or other properties under the jurisdiction of the NYCDPR and/or NYCDOT, it will be the Contractor's responsibility, through the EIC, to obtain NYCDPR's and/or NYCDOT's approval and, if requested, a separate Construction Permit at his/her own expense prior to the use of any such site (for NYCDPR property, this will be through the Director of Construction Permits, [REDACTED]). The Contractor is cautioned that standard fees may apply for use of NYCDPR property. Where staging and/or storage is



proposed on State of New York property, NYCDOT and/or NYCDPR approval is not required, however, NYCDOT and/or NYCDPR concurrence will be sought where a maintenance concern exists.

It is understood that localized staging/storage areas may be necessary in addition to any main areas shown on plans. Outside tree/landscape protection areas the Engineer-In-Charge (in consultation with NYCDPR and NYCDOT as appropriate) will designate such other localized areas appropriate for storage of materials, equipment as well as parking of contractor's vehicles and access routes through the active work zone. These areas must be defined by appropriate fencing and must meet all MPT/ safety criteria as well.

On sloping areas, erosion-control methods (per NYSDOT standard erosion control items) will be used to prevent movement of soil, especially into storm drains. Where it will not impact on trees, existing topsoil may be scraped off and stored in piles, to be replaced at time of site restoration.

8. **Landscape Maintenance During Construction:** During the course of the project, the Contractor shall maintain the appearance of the project site by removing litter, debris and excess materials as a result of the construction operation from the work site on a regular basis and storing all construction equipment and construction material in an organized fashion throughout the construction period. This will deter illegal dumping and encourage the public to respect the project and the rest of the roadway.

All areas inaccessible to agencies' maintenance forces must be kept as clean as possible by the Contractor. The EIC will consult with the Contractor and NYCDOT to determine and agree upon the limits of such areas. Additionally, any vegetation requiring maintenance such as mowing of grass will be maintained to the standard occurring on the remainder of the roadway as ordered by the Engineer-in-Charge. Unless otherwise specified, mowing shall be done at the rate and time typically done by NYCDOT Arterial Maintenance for the given road, weather conditions and time of year (average once/ 3 weeks month , May through October). If no item is specified, no separate payment will be made. Cleaning and other maintenance tasks must be coordinated regularly through the EIC with appropriate agencies to provide uninterrupted maintenance throughout the project.

9. **Restoration of Landscape:** All excess materials and debris due to the Contractor's operation shall be removed by the Contractor, as part of the site restoration. All soil diminished and/or contaminated with excess material and debris will also be removed and replaced with topsoil acceptable to the EIC in consultation with the Regional Landscape Architect and other agencies having jurisdiction (unless otherwise specified, topsoil shall have organic content of 6-12%, a pH of 6.0-7.0, meet the standard NYSDOT topsoil specifications for gradation and shall be paid for under item 613.0101M). The Contractor, as directed by the EIC, shall restore a minimum of 150mm (6 inches) of new topsoil on all areas where the topsoil layer has been diminished or lost due to his/her operations. Outside the dripline of trees, if it is determined by the EIC in consultation with the RLA that the soil has been compacted during

the course of the project, it will be uncompacted and loosened to the depth of 0.3M (one foot) prior to grass seeding. Under no circumstances may heavy equipment (i.e. payloaders) be used to accomplish site restoration within the dripline of trees. In these root-sensitive areas, work must be done by hand using only light equipment.

10. **Stockpile of "offensive" material:** If, during the course of the contract, the Contractor requires to stockpile any construction material within the work zone which in the opinion of the Engineer-In-Charge, may be offensive in nature to "sensitive receptors" (e.g.: homes, public places, hospitals, or schools) because of appearance, odor, potential for airborne disbursement or hazardous nature, he/she must obtain permission from the Engineer-In-Charge prior to placing the stockpile. As a guideline, no such stockpiling would normally be permitted within 60m (200 feet) of any sensitive receptor. The Contractor should also note that:
  - The stockpile site shall not be used for storing/dumping debris from Contractor's other projects.
  - New York City Department of Sanitation must be contacted for issuance of permit on any project if the Contractor wants to store stockpile materials outside the State Right-of-Way.
11. **Asian Longhorn Beetle:** If working within areas under regulation pursuant to part 139 of the New York State Department of Agriculture and Markets Law ("Control of the Asian Long-Horned Beetle") the Contractor, in handling host material living, dead, cut or fallen, inclusive of nursery stock, logs, green lumber, stumps, roots, branches and debris of a half inch or more in diameter, shall comply with all requirements of that law including "certification", meaning: The Contractor shall obtain all necessary training and execute a "compliance agreement" with the N.Y.S. Department of Agriculture and Markets. The Contractor shall provide NYSDOT with an original copy of the fully executed agreement and shall display the issued identification stickers on all vehicles involved with tree work within the quarantine areas.

In all other work zones, Contractors are alerted to the possibility of encountering the Asian Long-Horned Beetle and are requested, if beetles are observed or suspected of being present, to contact: N.S. Department of Agriculture and Markets Division of Plant Industry, 4 Stewart Avenue, West Hampton Beach, NY 11878 (631)288-1751 or 800-554-4501 ext. 72087. More information about the beetle and quarantine limits can be found at:

- <http://willow.ncfes.umn.edu/asianbeetle/beetle.htm>
- <http://www.aphis.usda.gov/oa/alb.html>

12. **Plant Pest Control Quarantine:** (Include if working in Richmond or Kings Counties) The Contractor's attention is directed to the quantity restrictions as regards the New York State Department of Agriculture's regulating of movement of Topsoil and equipment in Nassau, Suffolk, Richmond and Kings Counties.

Detailed instructions and assistance relative to the above quarantines may be obtained from

the Senior Horticultural Inspector at: Animal and Plant Health inspection Service,  
Department of Agriculture, 4 Stewart Road, Westhampton Beach, NY 11978, Phone (516)  
288-4191

13. **Tick Warning:** (include if directed by the Landscape/Environmental Unit) Long Island is an area where Lyme disease is wide spread. This contract takes place in high risk exposure areas which increases the possibility of coming in contact with ticks that carry the disease. The Contractor shall take positive steps to inform all employees of this danger, including holding safety meetings which cover this topic.
14. **Poison Ivy Warning:** (include if directed by the Landscape/Environmental Unit) This contract takes place in areas that have high concentrations of poison ivy. The Contractor shall take positive steps to inform all employees of this danger, including holding safety meetings which cover this topic.